

UNITED STATES DISTRICT COURT

for the

Southern District of West Virginia

In the Matter of the Search of

(Briefly describe the property to be searched
or identify the person by name and address)Huntington Spine Rehab and Pain Center
3554 US Route 60 East,
Barboursville, WV 25504

Case No. 3:10-mj-00045

TERESA L. DEPPNER, CLERK
U.S. District Court
Southern District of West Virginia

REDACTED COPY

APPLICATION FOR A SEARCH WARRANT

I, a federal law enforcement officer or an attorney for the government, request a search warrant and state under penalty of perjury that I have reason to believe that on the following person or property (identify the person or describe the property to be searched and give its location):

The medical office/business premises of Dr. Philip F. Fisher, D.O.- Huntington Spine Rehab and Pain Center, 3554 US Route 60, East, Barboursville, WV 25504 (See Attachment A)

located in the Southern District of West Virginia, there is now concealed (identify the person or describe the property to be seized):

See Attachment B.

PLEASE NOTE REDACTIONS TO ATTACHMENT B & AFFIDAVIT

The basis for the search under Fed. R. Crim. P. 41(c) is (check one or more):

- ☒ evidence of a crime;
☒ contraband, fruits of crime, or other items illegally possessed;
☒ property designed for use, intended for use, or used in committing a crime;
☐ a person to be arrested or a person who is unlawfully restrained.

The search is related to a violation of:

Code Section
21 U.S.C. §§ 846; 841(a)(1);
843(2) and (3)

Offense Description
Conspiracy to distribute controlled substances and obtain controlled substances by fraud; distribution of controlled substances and misuse of a DEA registration

The application is based on these facts:

See attached affidavit.

- ☒ Continued on the attached sheet.
☐ Delayed notice of _____ days (give exact ending date if more than 30 days: _____) is requested under 18 U.S.C. § 3103a, the basis of which is set forth on the attached sheet.

Monica K. Schwartz
Applicant's signature

Monica K. Schwartz, Assistant United States Attorney
Printed name and title

Sworn to before me and signed in my presence.

Date: 12/16/10

City and state: Huntington WV

[Signature]
Judge's signature

Cheryl A. Eifert, United States Magistrate Judge
Printed name and title

ATTACHMENT A
(Business Premises Located
at 3554/3458 US Route 60 East
Barboursville, WV 25504)

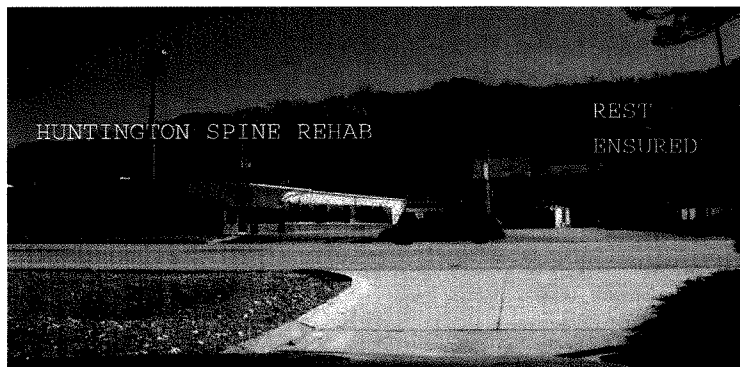
DESCRIPTION OF PREMISES TO BE SEARCHED

1. Huntington Spine Rehab and Pain Center -

Huntington Spine Rehab and Pain Center is located at 3554 US Route 60 East, Barboursville, WV. It appears to be a single story building constructed primarily of brick and metal siding. It bears a sign or signs indicating the name of Huntington Spine Rehab and Pain Center or words to that effect. It is connected to another building via a cinder-block passage. It is situated on the left side of the property with a parking lot to the side.

2. R.E.S.T./Rest Ensured Sleep Technologies -

Directly across the parking lot from Huntington Spine Rehab and Pain Center is R.E.S.T./Rest Ensured Sleep Technologies. It appears to be a single story building constructed primarily of brick and metal siding. It bears a sign with the name of the R.E.S.T./Rest Ensured, or words to that effect. The street address for Rest Ensured is either 3554 or 3458 US Route 60 East, Barboursville, West Virginia, 25504.



IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
HUNTINGTON

IN RE:

HUNTINGTON SPINE REHAB
AND PAIN CENTER

Magistrate No. 3:10-mj-00045

LOCATED AT 3554 US ROUTE 60 EAST
BARBOURSVILLE, WV 25504

ATTACHMENT B

ITEMS TO BE SEIZED

The government seeks to seize the following items which are believed to be kept and maintained on the premises described in the Search Warrant:

- (1) With regard to the patients identified on the attached "Complete Patient Seizure List":
 - (a) Complete patient files and billing information, including but not limited to, clinical records, progress notes, charts, superbills, fee tickets, encounter forms, routing slips, and similar documents; patient bills, invoices, insurance claims, claim forms, explanations of benefits, copies of checks or electronic transfers of payments, billing and payment records, patient ledgers or account cards; all schedule books, calendars, appointment books, patient sign-in logs or sheets and similar records
 - (b) All correspondence that in any way relates to the patients
 - (c) All laboratory test orders and laboratory test results
 - (d) Any and all agreements with patients
- (2) Any pre-signed or filled out prescriptions
- (3) The computer hardware (and associated peripherals) associated with any and all computers maintained at the search site - for the purpose of making a mirror image

With regard to Rest Ensured, authority is granted for on-site mirror imaging only, if on-site mirror imaging is not successful, further court authorization must be sought before computer hardware (and associated peripherals) are seized

In the event that any computer hardware (and/or associated peripherals) are seized, they must be returned to their owner within 60 days of seizure.

- (4) With regard to Dr. Fisher:
- (a) Personal and business schedules, calendars, travel documents, telephone numbers, telephone messages
 - (b) Any and all biographical, financial, and business documents, to include but not limited to memorandums, letters, correspondences
 - (c) Photographs, including still photos, negatives, videotapes, films, undeveloped film and the contents therein, in particular, photographs of co-conspirators and photographs documenting commission of crimes
- (5) Any and all documents and records, contracts, writings, electronic mailings or other material relating to those listed in the complete patient seizure list attached hereto
- (6) Any and all controlled substances and corresponding package materials or prescription vials

With regard to Rest Ensured, prescribed controlled substances (e.g. tablets in a prescription vial), in the names of individuals who are not present, may be seized. Stock controlled substances for which there are no records indicating that Dr. Stultz received shipment (per 21 C.F.R. 1304.21/1304.04(a)), may also be seized

- (7) Records and documents relating to the purchase, dispensation, administration, prescription or distribution of controlled substances required to be maintained pursuant to Title 21, C.F.R., Section 1300 et seq.

- (8) Indicia of occupancy, residency, rental and/or ownership of the premises described herein, including but not limited to, utility and telephone bills, rental, and/or purchase, and/or lease agreements.

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
HUNTINGTON

IN RE:

HUNTINGTON SPINE REHAB AND PAIN CENTER
LOCATED AT 3554 US ROUTE 60 EAST
BARBOURSVILLE, WV 25504

Magistrate No. 3:10-mj-00045

COMPLETE PATIENT SEIZURE LIST

